

December 19, 2017

USAC SLD

RE: Tigard Tualatin SD 20

BEN # 144915

471 # 171010961

FRN # 1799111582

We are appealing the FCDL issued December 14, 2017 for Tigard Tualatin School District in which funding was denied stating "Competitive Bidding/Cost Effectiveness Issue."

We received a denial review inquiry via EPC on December 13, 2017 and promptly responded the following day, December 14, 2017. However, in less than 24 hours, the FCDL denial had already been issued in the system. We have opened a customer service case, and consulted with our USAC case manager who urged us to submit an immediate appeal.

The determination states that the "All competitive bidding process must be open and fair. "Fair" means that all bidders treated the same. Since both responded vendors were not treated equally, this FRN is denied."

Tigard Tualatin SD received **only one qualified bid** from Wave Business Solutions, LLC. Another bid received from Zayo Group was disqualified, prior to bid evaluation, as it did not meet the requirements clearly outlined in the RFP.

Mandatory Walkthroughs and Bidders Conference

You can require that bidders participate in a walkthrough of your facility or attend a bidders conference in order to submit a bid. As long as you have clearly stated in your FCC Form 470 and/or RFP that not attending these events is a reason for disqualification, you can disqualify bids from service providers that were not present at these events.

Please see attached:

- 1) RFP stating mandatory pre-proposal conference attendance requirement.
- 2) Attorney response letter to Zayo's protest of their non-award and note the disqualification was due to **non-attendance** of the mandatory pre-proposal conference.

Oregon State and local procurement rules for competitive bidding were adhered to during the entire process. All prospective bidders were treated fair and equally. Tigard-Tualatin School District considered the **only** eligible bid proposal and evaluated it for most cost effective eligible services as per E-Rate guidance.

Denial of funding will cause a substantial financial burden on the school district.

We appreciate the opportunity to submit our appeal.

Jeffrey G. Condit, P.C.
Admitted in Oregon and Washington
jeff.condit@millernash.com
503.205.2305 direct line

May 8, 2017

VIA E-MAIL
TED.GILLIAM@ZAYO.COM

Mr. Ted Gilliam
General Counsel
Zayo Group LLC
18110 SE 34th St., Building One
Vancouver, WA 98686

Subject: RFP Award Protest; RFP for Provision of Leased Dark Fiber or High
Capacity Ethernet for Tigard Tualatin School District, dated May 5, 2017

Dear Mr. Gilliam:

We represent Tigard-Tualatin School District (the "District"). The District has asked us to respond to the above-noted protest. As your letter notes, the District rejected Zayo Group LLC's ("Zayo") proposal because Zayo failed to attend the mandatory pre-proposal conference and failed to execute its proposal.

Attendance at a mandatory pre-proposal conference is a condition precedent to submission of a proposal. The District cannot accept a proposal from a vendor that does not attend the conference. You argue that the notice of the conference was too short and that the District should have rescheduled at Zayo's request. The scheduling of a mandatory pre-proposal conference is entirely at the District's discretion. In this case, the schedule was dictated by the need to complete the RFP process in time to meet the application deadline for E-Rate funding as set forth in the RFP. Nothing in the District's rules requires it to reschedule a pre-proposal conference at a vendor's request. The burden is on the vendor to attend.

You also argue that the District failed to notify Zayo that failure to attend the mandatory pre-proposal would disqualify it. The RFP speaks for itself on this issue; no additional notice is required. Indeed, if Zayo had desired to protest the scheduling of the pre-proposal conference, Zayo should have filed an RFP protest pursuant to Section 2.6 of the RFP. The deadline for such protest was seven days prior to proposal

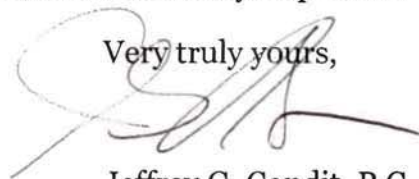
Mr. Ted Gilliam, General Counsel
May 8, 2017
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closing. RFP Section 2.6.c. An issue that could have been addressed under a protest of the RFP is not grounds for protest of the contract award. RFP Section 4.4.b(iv). Zayo's protest of the mandatory pre-proposal process is therefore untimely and does not provide a basis for protest of award.

The District may only waive failure to execute the RFP as a minor informality if there is a signature elsewhere in the RFP indicating an intent to be bound by the proposal. OAR 137-047-0470(2)(a)(B). The only signature in Zayo's submittal was on the cover letter, which did not express such intent. In any event, even if the District were to waive the failure to sign the RFP as a minor informality, it would still be entitled to reject the proposal for Zayo's failure to attend the mandatory pre-proposal conference.

For these reasons, the District denies Zayo's protest.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'J. Condit', is written over the typed name.

Jeffrey G. Condit, P.C.



Tigard-Tualatin
School District

REQUEST FOR PROPOSALS

E-Rate Form 470 Request for Proposals

for the provision of Leased Dark Fiber
or High Capacity Ethernet

Proposal Opening Date: April 21, 2017
Proposal Opening Time: 2:00pm
Proposal Opening Room: Financial Services Office

For Clarification Contact: Lee Reinholtz, Sr. Purchasing Specialist
Email only (no phone calls): lrehnholtz@ttsd.k12.or.us

Mailing Address: Tigard-Tualatin School District 23J
Purchasing
6960 SW Sandburg Street
Tigard, Oregon 97223

FAXED OR LATE PROPOSALS WILL NOT BE ACCEPTED

ADVERTISEMENT

TIGARD-TUALATIN SCHOOL DISTRICT NO. 23J

Notice is hereby given that Tigard-Tualatin School District is seeking proposals from qualified providers to obtain competitive Offers from qualified Firms (Proposers) interested in the provision of Leased Dark Fiber or High Capacity Ethernet beginning March 15, 2017.

A mandatory pre-proposal conference will be held on March 21, 2017. We will meet at the Hibbard Administration Building Conference Room C, 6960 SW Sandburg Street, Tigard, OR 97223 at 2:00pm PDT.

Sealed proposals will be received by Lee Reinholtz, Sr. Purchasing Specialist at the District Office, 6960 SW Sandburg St, Tigard, OR on Friday, April 21, 2017 by 2:00 PM PDT. Late proposals will not be accepted.

A complete description of the project, requirements and specific conditions for the Request for Proposal (RFP) are available by emailing lreinholtz@ttsd.k12.or.us.

Proposals will address the provision of Leased Dark Fiber or High Capacity Ethernet for Tigard-Tualatin School District beginning after receipt of Funding Commitment Decision Letter (FCDL) from USAC.

Attention is called to the provisions of the Oregon Statutes, Chapter 279A, 279B and 279C. The bidder must indicate if bidder is a resident bidder as defined in ORS 279A.120 and if the contractor and subcontractors are licensed under ORS 701.005 – 701.055.

The TIGARD-TUALATIN SCHOOL DISTRICT NO. 23J reserves the right to reject any or all proposals that are not in compliance with all prescribed requirements.

Publish: The Daily Journal of Commerce
March 15, 2017

II – PROPOSAL PROCESS

1. Proposal Procedures

A. Issuing Office

This RFP document is issued by the Issuing Office of the District and that office shall be the sole point of contact for this RFP. Please contact the following person:

| | |
|---|------------------------------|
| Contact Name: | Lee Reinholtz |
| Title: | Senior Purchasing Specialist |
| Tigard-Tualatin School District No. 23J | Phone: (503) 431-4035 |
| 6960 S.W. Sandburg Street | Fax: (503) 431-4037 |
| Tigard, Oregon 97223 | lreinholtz@ttsd.k12.or.us |

B. Pre-Proposal Conference

A mandatory Pre-Proposal Conference will be held on March 21, 2017 2:00pm PDT at the following location:

Tigard-Tualatin School District
Board Room, Hibbard Adm. Building
6960 SW Sandburg Street
Tigard, Oregon 97223

This meeting is designed to clarify the information that is contained in this RFP and give an opportunity for questions and answers.

The Pre-Proposal Conference is mandatory. Representatives from the District will be present to answer questions.

C. RFP Timetable. The District reserves the right to deviate from this schedule.

| EVENT | DATE |
|---|--|
| Publication | March 15, 2017 |
| Mandatory Pre-Proposal Conference | March 21, 2017 |
| Inquires Deadline | March 22, 2017 |
| Deadline to Withdraw from the RFP Process | April 13, 2017 |
| Submission Deadline | April 21, 2017 |
| Interviews (if needed) | April 25, 2017 |
| Date of Notice of Intent to Award | April 28, 2017 |
| Protest Deadline | May 5, 2017 |
| TTSD School Board Meeting | May 8, 2017 |
| Contract Award Date | May 9, 2017 |
| Project Start Date | Upon receipt of USAC Funding Commitment Decision Letter (FCDL) |
| Final Completion Date | September 30, 2018 |

All written inquiries or protests of the RFP process must be received by the Inquiries Deadline as indicated above. Clarifications and responses to written inquiries or protests regarding this RFP will be sent within one week of receipt of written inquiries or protests.